

ARIZONA CORPORATION COMMISSION
Powering Arizona's Future

OPEN MEETING ITEM

Hearing Division

COMMISSIONERS

Chairman Robert "Bob" Burns
Boyd Dunn
Sandra D. Kennedy
Justin Olson
Lea Márquez Peterson

DATE: OCTOBER 22, 2019
DOCKET NO.: SW-20445A-19-0121 AND W-20446A-19-0122
TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Charles H. Hains. The recommendation has been filed in the form of an Opinion and Order on:

GLOBAL WATER – PALO VERDE UTILITIES COMPANY, LLC AND GLOBAL WATER –
SANTA CRUZ WATER COMPANY, LLC
(CC&N EXTENSION)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

NOVEMBER 1, 2019

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

NOVEMBER 6 and NOVEMBER 21, 2019

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

MATTHEW J. NEUBERT
EXECUTIVE DIRECTOR

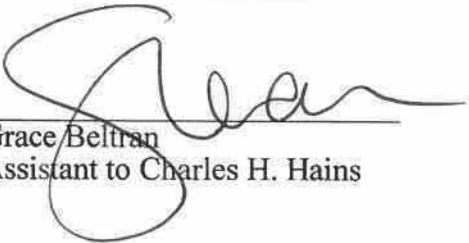
On this 22nd day of October, 2019, the following document was filed with Docket Control as a Recommended Opinion & Order from the Hearing Division, and copies of the document were mailed on behalf of the Hearing Division to the following who have not consented to email service. On this date or as soon as possible thereafter, the Commission's eDocket program will automatically email a link to the filed document to the following who have consented to email service.

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

ROBERT "BOB" BURNS – Chairman
BOYD DUNN
SANDRA D. KENNEDY
JUSTIN OLSON
LEA MÁRQUEZ PETERSON

IN THE MATTER OF THE APPLICATION OF
GLOBAL WATER - PALO VERDE UTILITIES
COMPANY, LLC FOR AN EXTENSION OF ITS
EXISTING CERTIFICATE OF CONVENIENCE
AND NECESSITY.

DOCKET NO. SW-20445A-19-0121

IN THE MATTER OF THE APPLICATION OF
GLOBAL WATER - SANTA CRUZ WATER
COMPANY, LLC FOR AN EXTENSION OF ITS
EXISTING CERTIFICATE OF CONVENIENCE
AND NECESSITY.

DOCKET NO. W-20446A-19-0122

DECISION NO. _____

OPINION AND ORDER

DATE OF HEARING:

September 26, 2019

PLACE OF HEARING:

Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE:

Charles H. Hains

APPEARANCES:

Mr. Timothy J. Sabo, Regulatory Counsel, Global Water Resources, Inc., on behalf of Applicants Global Water – Santa Cruz Water Company, LLC and Global Water – Palo Verde Utilities Company, LLC;

Ms. Michele Van Quathem, LAW OFFICES OF MICHELE VAN QUATHEM, PLLC, on behalf of APEX Landco, LLC and Private Motorsports Group, LLC; and

Ms. Gina Huerta, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

* * * * *

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT**Procedural History**

1. On June 7, 2019, Global Water - Palo Verde Utilities Company, LLC ("Palo Verde") filed an application with the Commission for an extension of its existing Certificate of Convenience and Necessity ("CC&N") in Docket No. SW-20445A-19-0121.

2. On the same date, Global Water – Santa Cruz Water Company, LLC ("Santa Cruz")¹ filed an application with the Commission for an extension of its existing CC&N in Docket No. W-20446A-19-0122.

3. On June 11, 2019, a Procedural Order regarding Consent to Email Service was issued.

4. On the same date, the Global Utilities filed amendments to their respective CC&N applications, and each filed a Motion to Consolidate in its respective docket, stating that the dockets concern the same property, and noting that the Global Utilities are affiliates.

5. On June 18, 2019, Apex Landco, LLC and Private Motorsports Group, LLC (collectively, "Apex") filed a Motion to Intervene ("Motion") in each docket, stating that Apex Landco owns a 278.4-acre² parcel that will be developed by Private Motorsports Group. Apex went on to explain that it has requested water and sewer service from the Global Utilities.

6. Also on June 18, 2019, Apex filed a Consent to E-Mail Service in each of the dockets. Apex's designated email address has been verified.

7. On July 8, 2019, the Commission's Utilities Division ("Staff") filed a Sufficiency Letter, stating that the application for Santa Cruz had met the sufficiency requirements as outlined in Arizona Administrative Code ("A.A.C.") R14-2-411(C).

8. On the same date, Staff filed a Sufficiency Letter stating that the application for Palo Verde had met the sufficiency requirements as outlined in A.A.C. R14-2-610(C).

9. On July 9, 2019, by Procedural Order, Docket Nos. SW-20445A-19-0121 and W-20446A-19-0122 were consolidated, and Apex's Motion to Intervene was granted.

10. On the same date, by Procedural Order, a hearing was set for September 26, 2019.

¹ Hereinafter, Palo Verde and Santa Cruz are referred to collectively as the "Global Utilities."

² Apex's Motion states that the property is 273 acres. However, testimony provided at hearing clarified that the Apex property is 278.4 acres. Tr. at 21.

11. On July 10, 2019, a Procedural Order regarding efilings was issued.

12. On the same date, the Global Utilities filed a Notice of Filing Notices to the City of Maricopa and the City of Goodyear.

13. On August 7, 2019, the Global Utilities filed a Notice of Filing Affidavit of Publication of Public Notice and Affidavit of Mailing Public Notice to Property Owners, stating that notice had been mailed and published in the *Casa Grande Dispatch*, on July 30, 2019, a newspaper of general circulation in the proposed extension area.

14. On August 30, 2019, the Global Utilities filed a Notice of Filing License Agreement between the Global Utilities and the City of Maricopa.

15. On September 13, 2019, Staff filed its Staff Report, recommending the approval of Santa Cruz's application, subject to conditions, and the denial of Palo Verde's application.

16. On September 23, 2019, the Global Utilities filed a Response to the Staff Report indicating acceptance of Staff's recommendations.

Background

17. The Global Utilities are public service corporations in good standing with the Commission's Corporations Division. (Ex. S-1 at 1.) Santa Cruz provides water utility service and Palo Verde provides wastewater and recycled/reclaimed water utility service to portions of Pinal County, Arizona. The Global Utilities operate on an integrated basis that facilitates the recycling of nearly 1 billion gallons of water annually. (Ex. A-2 at 9.)

18. Santa Cruz has approximately 21,076 water customers in its existing CC&N. (Tr. at 39.) Palo Verde has approximately 20,400 wastewater customers within its existing CC&N. (Ex. S-1, Attachment A (Eng. Report) at 1.)

19. The Global Utilities are wholly owned by Global Water, LLC, which is wholly owned by Global Water Resources, Inc. ("GWRI"). GWRI is headquartered in Arizona and is the ultimate parent of nine other Arizona utilities. GWRI's shares trade on the NASDAQ Global Market and the Toronto Stock Exchange. (Ex. A-2 at 3-4.)

20. On June 7, 2019, the Global Utilities filed applications to extend their service territories to include approximately 278.4 acres of land being developed by Apex ("Extension Area"). The legal

1 description of the Extension Area is attached hereto as Attachment No. 1.

2 21. The Extension Area is located approximately 3.5 miles west of the Global Utilities'
3 existing North Zone³ CC&N and 0.5 miles east of the Global Utilities' existing Northwest Zone CC&N.
4 The Extension Area is located just within the northwestern-most border of the City of Maricopa in
5 Pinal County, immediately north of Arizona State Route 238 (Maricopa Road), between North Rio
6 Bravo Road and North Ralston Road.

7 22. Apex intends to develop its Extension Area property to provide a racetrack and
8 supporting facilities for a members-based motorsports club. Apex's property within the Extension
9 Area is planned for construction in three phases. Upon buildout, the Apex development will include
10 two racing circuits, each more than two miles in length; 144 private garages; a maintenance and fueling
11 station; and various commercial structures, including a clubhouse. (Ex. Apex-2.) Construction has
12 already been completed for Phase 1 of the development, and Apex has sold out its Phase 1
13 memberships. (Tr. at 17.) Apex is currently accepting membership reservations for facilities to be
14 constructed as part of Phase 2. (*Id.*)

15 23. The Global Utilities plan to extend service from facilities under construction as part of
16 a Santa Cruz capital expenditure project in the North Zone of Santa Cruz's CC&N. (Tr. at 26.)
17 According to Graham Symmonds's testimony on behalf of the Global Utilities, although the Northwest
18 Zone CC&N is physically closer to the Extension Area, the North Zone is closer from an infrastructure
19 perspective. (Tr. at 27.)

20 **Existing/Proposed Water System**

21 24. According to Staff's Engineering Report, Santa Cruz's North Zone water system
22 includes six wells providing potable water; four wells providing non-potable construction and irrigation
23 use; five storage tanks with a total storage capacity of approximately 6.5 million gallons; 21 booster
24 pumps of various sizes; and a distribution system. (Ex. S-1, Attachment A at 2.)

25 25. A 16,300-foot (3.1 mile) length of 16" ductile iron pipe ("DIP") water main will be
26 constructed to serve the Extension Area. The new water main will begin at the intersection of Smith
27

28 ³ The Global Utilities internally subdivide their CC&Ns into the North, Northwest, Southwest, and Southeast Service Areas or Zones. The various internal service areas are not interconnected but are instead operated as satellite systems.

1 Enke Road and Green Road and will extend west along Smith Enke Road to AZ 238 and then west
2 along AZ 238 to Ralston Road. Along Ralston Road, 1,150 feet of 12" DIP water main will be
3 constructed to two connection points on the eastern border of the Extension Area. (Ex. S-1, Attachment
4 A at 2; Ex. A-2, Attachment 5 (Map of Proposed Water Systems).)

5 26. Per the Global Utilities, Santa Cruz presently has a total well production capacity of
6 11.9 million gallons per day ("MGD"), of which 8.84 MGD is committed. The Global Utilities
7 anticipate that the additional demands to serve the Extension Area will increase committed demands to
8 8.85 MGD, thus indicating adequate production capacity to serve the Extension Area. (Ex. A-2,
9 Attachment 10 (Preliminary Engineering Report) at 5-6.)

10 27. Staff concluded that Santa Cruz's existing system has adequate capacity to serve the
11 existing CC&N and the Extension Area. (Ex. S-1, Attachment A at 3.)

12 28. Staff's and the Global Utilities' analyses both also indicate that Santa Cruz has sufficient
13 storage capacity to provide service to the Extension Area. (Ex. S-1, Attachment A at 3; Ex. A-2,
14 Attachment 10 at 6.)

15 29. According to Santa Cruz's application, extending service to the Extension Area is
16 expected to cost approximately \$3,055,452 in onsite infrastructure costs and \$98,100 in offsite
17 infrastructure costs. (Ex. A-2, Attachment 11.)

18 30. The necessary facilities will be financed through a combination of contributions
19 collected through hook-up fees, advances collected through main extension agreements, debt, and
20 equity. (Ex. A-2 at 8; Tr. at 41.)

21 31. Staff concluded that Santa Cruz's proposed costs to construct facilities needed to
22 provide water utility service to the Extension Area is reasonable. However, Staff stated that it did not
23 make a "used and useful" determination for the proposed water facilities and that no conclusions should
24 be inferred for ratemaking or rate base purposes. (Ex. S-1, Attachment A at 2.)

25 32. Santa Cruz will charge its existing water rates in the Extension Area. (Ex. A-2 at 7.)

26 33. According to an ADEQ Compliance Status Report dated June 12, 2019, ADEQ reports
27 that Santa Cruz is currently delivering water that meets water quality standards required by 40 Code of
28 Federal Regulations Part 141 (National Primary Drinking Water Regulations) and A.A.C. Title 18,

Chapter 4. (Ex. S-1, Attachment A at 6.)

34. According to the Staff Report, Santa Cruz is located within the Arizona Department of Water Resources ("ADWR") Pinal Active Management Area, and an ADWR Water Provider Compliance Report dated June 19, 2019, found Santa Cruz to be in compliance with ADWR requirements for water providers and/or community water systems. (*Id.* at 7.)

35. Regarding compliance with Commission requirements, Staff reported that Santa Cruz has a pending time extension request in another matter that was not timely filed. (*Id.*) However, because the extension request is pending before the Hearing Division, Staff does not view Santa Cruz as being out of compliance. (Tr. at 59.)

36. Santa Cruz has an approved backflow prevention tariff, curtailment tariff, offsite hookup fee tariff, and best management practice tariff on file with the Commission.

Existing/Proposed Wastewater System

37. The Extension Area is located approximately 3.5 miles from Palo Verde's North Zone and 0.5 miles from Palo Verde's Northwest Zone. Although Palo Verde's Northwest Zone CC&N border is closer to the Extension Area, it is anticipated that when Palo Verde is ready to extend services to the Extension Area, service would be extended from the North Zone.

38. According to Staff, Palo Verde's North Zone system includes a sequential batch reactor wastewater treatment plant with design capacity of 12 MGD that is currently permitted by ADEQ for only 5 MGD of capacity. Additionally, Palo Verde maintains solid waste processing and handling facilities, four ultraviolet and chlorine disinfection systems, two 10 MGD disc filter filtration systems, various related laboratory and plant infrastructure, and an effluent reuse system.

39. Palo Verde has no immediate plans to extend wastewater service to the Extension Area. For the foreseeable future, and until growth throughout the CC&N justifies extension of sewer mains to the Extension Area, Palo Verde plans to have Apex meet its wastewater processing needs through a septic system to be owned and operated by Apex. The Apex wastewater system is planned to include two septic tanks, one 5,000 gallons and the other 3,000 gallons capacity, operated sequentially. Additionally, the septic system will include three primary and one reserve seepage pit. When Palo Verde has regional facilities available to serve the Extension Area, Palo Verde plans to interconnect

1 with the property at Ralston Road, and Apex plans to decommission the septic system. Palo Verde
2 provided no construction timeline or projected costs to extend wastewater service to the Extension
3 Area.

4 40. According to an ADEQ Compliance Status Report dated June 12, 2019, ADEQ reports
5 that Palo Verde is currently meeting ADEQ requirements for the operation of its wastewater treatment
6 plant. (Ex. S-1, Attachment A at 6-7.)

7 41. Regarding compliance with Commission requirements, Staff reported that Palo Verde
8 has a pending time extension request in another matter that was not timely filed. (*Id.* at 7.) However,
9 because the extension request is pending before the Hearing Division, Staff does not view Palo Verde
10 as being out of compliance. (Tr. at 59.)

11 **Staff Recommendations**

12 42. Staff recommends that the Commission approve Santa Cruz's application for an
13 extension of its CC&N to provide water service within the area of Pinal County, Arizona described in
14 Attachment No. 1, subject to compliance with the following conditions:

- 15 a. That Santa Cruz charge its authorized rates and charges in the extension area;
16 and
17 b. That Santa Cruz file with Docket Control, within 5 years of the effective date of
18 an order granting this application, as a compliance item in this docket, a copy of
19 the ADEQ Approval of Construction ("AOC") for the first parcel served in the
20 requested area.

21 43. Staff further recommends that the Commission's Decision granting the requested
22 CC&N extension to Santa Cruz be considered null and void, after due process, should Santa Cruz fail
23 to meet condition (b) above.

24 44. Staff recommends that the Commission deny Palo Verde's application for an extension
25 of its CC&N to provide wastewater service within the area of Pinal County, Arizona described in
26 Attachment No. 1. In support for its recommendation, Staff notes that Palo Verde's application lacks
27 information necessary to perform an engineering analysis or cost analysis for Palo Verde's plan to
28 extend wastewater service to the Extension Area. Staff concludes that Palo Verde has not demonstrated

1 a definitive need to extend wastewater service to the property and that approval of Palo Verde's CC&N
2 extension request is consequently unwarranted at this time.

3 45. The Global Utilities accepted Staff's recommendations. (Ex. A-8 at 2.)

4 46. Staff's recommendations set forth in Findings of Fact No. 42 are reasonable, and
5 appropriate and should be approved.

6 47. Based upon the lack of evidence demonstrating a clear need to extend wastewater
7 service to the Extension Area, we find that Staff's recommendation to deny Palo Verde's request to
8 extend its CC&N for wastewater service to the Extension Area is reasonable, and appropriate and
9 should be adopted.

10
11 **CONCLUSIONS OF LAW**

12 1. Global Water - Santa Cruz Water Company, LLC and Global Water - Palo Verde Utilities
13 Company, LLC are public service corporations within the meaning of Article XV of the Arizona
14 Constitution and A.R.S. §§ 40-281 and 40-282.

15 2. The Commission has jurisdiction over Global Water - Santa Cruz Water Company, LLC
16 and Global Water - Palo Verde Utilities Company, LLC and the subject matter of their Applications.

17 3. Notice of the Applications was provided in accordance with the law.

18 4. Staff's recommendations are reasonable and should be adopted.

19 **ORDER**

20 IT IS THEREFORE ORDERED that the application of Global Water - Santa Cruz Water
21 Company, LLC for an extension of its Certificate of Convenience and Necessity to provide water
22 service in Pinal County for the property described in Attachment No. 1 attached hereto, is approved as
23 conditioned herein.

24 IT IS FURTHER ORDERED that the application of Global Water - Palo Verde Utilities
25 Company, LLC for an extension of its Certificate of Convenience and Necessity to provide wastewater
26 service in Pinal County for the property described in Attachment No. 1 attached hereto, is denied.

27 IT IS FURTHER ORDERED that Global Water - Santa Cruz Water Company, LLC is required
28 to charge its existing rates and charges in the area described in Attachment No. 1.

1 IT IS FURTHER ORDERED that Global Water - Santa Cruz Water Company, LLC shall file
2 with Docket Control, within five years of the effective date of this Decision, as a compliance item in
3 this docket, a copy of the Arizona Department of Environmental Quality Approval of Construction for
4 the first parcel served in the requested extension area.

5 IT IS FURTHER ORDERED that Global Water - Santa Cruz Water Company, LLC's
6 Certificate of Convenience and Necessity to provide water utility service within the area described in
7 Attachment No. 1 shall be null and void, after due process, in the event that Santa Cruz fails to file the
8 Approval of Construction within the required time period.

9 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

10 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
11
12

13 CHAIRMAN BURNS

COMMISSIONER DUNN

COMMISSIONER KENNEDY

14
15 COMMISSIONER OLSON

COMMISSIONER MÁRQUEZ PETERSON

16
17 IN WITNESS WHEREOF, I, MATTHEW J. NEUBERT,
18 Executive Director of the Arizona Corporation Commission,
19 have hereunto set my hand and caused the official seal of the
20 Commission to be affixed at the Capitol, in the City of Phoenix,
21 this _____ day of _____ 2019.

22 MATTHEW J. NEUBERT
23 EXECUTIVE DIRECTOR

24 DISSENT _____

25
26 DISSENT _____
27 CHH/gb
28

1 SERVICE LIST FOR:

GLOBAL WATER - SANTA CRUZ WATER
COMPANY, LLC AND GLOBAL WATER - PALO
VERDE UTILITIES COMPANY, LLC

2
3 DOCKET NO.:

SW-20445A-19-0121 ET AL.

4 Michele L. Van Quathem

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Attachment No. 1

EXHIBIT "A"

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF PINAL, STATE OF ARIZONA, AND IS DESCRIBED AS FOLLOWS:

The Land referred to herein below is situated in the County of Pinal, State of Arizona, and is described as follows:

The North half and that portion of the North half of the South half of Section 14, Township 4 South, Range 2 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona, lying North of the Maricopa Highway;

EXCEPT that part of Section 14, Township 4 South, Range 2 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona, more specifically described as follows:

A strip of land 80 feet in width lying parallel and adjacent to the existing Northern right-of-way line of the Southern Pacific Transportation Company 200 foot railroad right-of-way; and

EXCEPT that portion of Section 14, Township 4 South, Range 2 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona which lies Northerly of the existing 80.00 foot public highway and Southerly of the following described line:

COMMENCING at the East quarter corner of said Section 13, Township 4 South, Range 2 East;

THENCE South 00 degrees 17 minutes 16 seconds East, a distance of 584.27 feet along the East line of said Section to the POINT OF BEGINNING;

THENCE from a local tangent bearing of North 78 degrees 29 minutes 41 seconds West along the arc of a curve to the left having a radius of 34,630.61 feet, a distance of 6718.89 feet;

THENCE South 00 degrees 23 minutes 21 seconds West, a distance of 10.00 feet to the terminus of said line within said Section 14, said terminus being on the Northern right-of-way line of said public highway; and

EXCEPT any portion lying within that portion of the Northwest quarter of Section 13 and the Northeast quarter of Section 14 of Township 4 South Range 2 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona, more particularly described as follows:

BEGINNING at the Northwest corner of Section 13, which is a 2" iron pipe, from which the North quarter corner of said Section 13 bears North 89°42'05" East, 2591.89 feet, which is a 1/2" pipe, and is the basis of bearing;

THENCE North 89°42'05" East, along the North line of said Section 13, 201.27 feet;

THENCE South 0°36'00" West, parallel with the West line of said Section 13 and coincident with the property line described in Docket 2026, page 207, 2205.95 feet;

THENCE North $89^{\circ}24'00''$ West, coincident with the property line described in Docket 2026, page 207, 234.25 feet;

THENCE South $0^{\circ}36'00''$ West, parallel with and 33 feet West of the West line of said Section 13 and coincident with the property line described in Docket 2026, page 207, 336.70 feet to a point on a non-tangent curve concave to the South, on the Northerly right-of-way of State Route 238 as per Docket 1463, page 573 and Docket 1535, page 573; from said point the center point of said curve bears South $2^{\circ}44'56''$ West, 34630.61 feet;

THENCE Westerly along the arc of said curve, through a central angle of $0^{\circ}51'13''$, 515.99 feet;

THENCE North $0^{\circ}36'00''$ East, parallel with the West line of said Section 13, 2517.96 feet to the North line of said Section 14;

THENCE North $89^{\circ}58'13''$ East, along the North line of said Section 14, 548.78 feet to the POINT OF BEGINNING.

APN: 51080003C